IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4996 of 2006 (O&M)
Date of decision : 6.11.2006

The Oriental Insurance Company Limited

....Appellant

Versus

Jagiro Devi & others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Amit Rawal, Advocate
for the appellant.

...

MAHESH GROVER, J.(Oral)

The present appeal has been preferred by the insurance company against the award of the Motor Accident Claims Tribunal/Fast Track Court, Ambala dated 18.7.2006 passed in Case No.315-MACT of 2005.

The appellant having been granted permission under Section 170 of the Motor Vehicles Act by the Tribunal sought to assail the findings recorded by the Tribunal on the question of the involvement of the vehicle as also the quantum of compensation.

In an accident said to have taken place on 23.10.2002 one Jagir Singh lost his life as a result of rash and negligent driving of the car driven by one Parveen Kumar which was insured with the appellant company. The Tribunal after taking into consideration the evidence before it, awarded a sum of Rs.1,40,000/- to the claimant on

account of the death of 70 years old man and fastened the liability to pay the same on the appellant which has resulted in the present appeal.

Mr. Amit Rawal, learned counsel for the appellant contended that in the FIR no details of the vehicle were given even though the eye witnesses stated that they knew and recognized the driver of the car. Reliance was also placed on the report of the investigator of the company who reported that the car was not involved in the accident. The quantum of compensation was also questioned.

We have heard the learned counsel for the appellant and have perused the award which reveals that the FIR was lodged on 24.10.2002 and the said Parveen Kumar was charged for having committed offence under Section 279/304-A IPC. The car had also been seized by the police during the course of its investigation. The FIR was lodged a day after as the deceased had been rushed to the PGI in an injured condition after the accident and he succumbed to his injuries on 30.10.2002. Both the eye witnesses, PW2 Anil Kumar and PW3 Sukhbir Singh have consistently deposed regarding the involvement of the car in the accident. Despite cross-examination on various aspects, the testimony of these witnesses remained steadfast. There is thus no reason to differ with the findings of the Tribunal in so far as the involvement of the vehicle is concerned. Besides, the driver of the vehicle did not appear in the witness box to testify and he could have been the best evidence to establish the stand taken by the appellant.

That apart, the report of the investigator A.S.Vaish (RW1) does not inspire any confidence as the persons who were examined during the course of making inquiry by the investigator have neither been mentioned nor examined. The Tribunal has, therefore, rightly discarded this piece of evidence.

In so far as the amount of compensation is concerned, an amount of Rs.1,40,000/- for the death of a 70 years old person cannot be termed to be excessive as the Tribunal had actually granted only Rs.1,20,000/- and Rs.20,000/- were awarded on account of funeral expenses.

For the reasons stated above, we do not find any infirmity in the award of the Tribunal and the appeal being devoid of merit is dismissed as such.

(MAHESH GROVER)
JUDGE

6.11.2006

(UMA NATH SINGH)
JUDGE

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